

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Fitchburg Gas and Electric Light Company for)	
Approval of its Annual Electric Reconciliation Mechanism)	D.T.E. 01-103
and Inflation Adjustment Filing and Accompanying Tariffs)	

**ATTORNEY GENERAL'S OBJECTION TO THE MOTION OF
FITCHBURG GAS AND ELECTRIC LIGHT COMPANY FOR LEAVE TO FILE
NINE ADDITIONAL INFORMATION REQUESTS TO THE ATTORNEY GENERAL**

The Attorney General hereby objects to the motion ("Motion") filed by Fitchburg Gas and Electric Light Company ("Fitchburg" or the "Company") in which the Company seeks leave to file additional information requests. As grounds for his objection, the Attorney General states that the Company has misrepresented the facts and failed to establish good cause for amending the procedural schedule to allow the Company to file additional discovery.

I. FACTS

On June 24, the Attorney General filed the Direct Testimony of David J. Effron (the "Testimony"). The Company issued its First Set of Information Requests eleven days later, on July 5, 2002. On July 15, 2002, the Attorney General responded to all of the Company's Information Requests, asserting objections but providing the information and documents requested. On July 17, 2002, the Company served by email its Motion upon the Attorney General.¹ That same day, the hearing Officer by email ordered the Attorney General to respond to the Company's Motion no later than the close of business the next day. Evidentiary hearings are scheduled to commence in two business days, on July 22, 2002.

II. ARGUMENT

A. The Company has misrepresented the procedural schedule deadlines for discovery responses.

The Company contends that the Attorney General was required under the procedural schedule to file his information responses by July 10, 2002, and that his responses on July 15

¹ The Attorney General has attached herewith a printout of the Company's email forwarding the Motion to the Attorney General's attention. To date, the hard copy of the Motion has yet to arrive by either hand delivery or U.S. mail.

were five days overdue. *Motion*, p.1.

The Company misrepresents the procedural schedule deadline for discovery responses. The procedural schedule issued on May 17, 2002, attached hereto, states clearly that all discovery responses were due no later than July 15, 2002. On July 11, 2002, the Hearing Officer confirmed orally that the deadline for filing the information request responses was July 15, 2002.² The Attorney General filed his information request responses on July 15, 2002, as required under the procedural schedule.

B. The Company had time under the procedural schedule to issue multiple sets of discovery, but failed to do so.

Under the procedural schedule, the Company had the opportunity to issue a second round of discovery requests and receive responses before the hearing. The Attorney General filed the Testimony June 24, 2002. If the Company had issued discovery requests quickly, it would have had time for follow-up discovery requests and responses before the hearing, even with a ten-day response time (*e.g.*, 1st set of discovery requests June 28, responses July 8, second set of discovery requests July 9, responses July 19). Instead, the Company waited eleven days after it received the Testimony to issue discovery upon the Attorney General's witness. The Company thus effectively limited itself to only one round of discovery before the hearing.³

C. Requiring the Attorney General to respond to additional discovery on the eve of, and during, the hearings would be unfair and would interfere with the conduct of hearings.

Under the procedural schedule, hearings begin in only two business days and conclude in only five business days. It would be unfair and prejudicial to the Attorney General, absent any showing of good cause, to change the procedural schedule at this late date to require the preparation of discovery responses on the eve of, and during, the hearings. The Attorney General and his witness will be too busy during the next week, preparing for and participating in the hearing, to answer late-filed discovery requests from the Company.

² On or about July 9, 2002, the Attorney General telephoned the Hearing Officer in this case to confirm the deadline for filing his information request responses in light of the absence of ground rules in this case. On July 11, 2002, the Hearing Officer telephoned the Attorney General and confirmed that the deadline for filing responses to the Company's information requests was the July 15, 2002, date stated on the procedural schedule. Generally, the time allowed for filing responses to information requests is ten days from the issuance of the information requests which in this instance coincides with the July 15th date.

³When the Company did finally issue its first set of information requests, it directed many of its questions to the Attorney General rather than to his witness, and wasted everyone's time by asking the Attorney General to provide the Company with many documents already in Fitchburg's possession from previous Fitchburg cases.

III. CONCLUSION

For these reasons, the Company has not shown good cause for a change to the procedural schedule discovery deadlines. The Attorney General requests that the Department deny the Company's Motion.

Very truly yours,

Wilner Borgella, Jr.
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Dated: July 18, 2002